

AMENDED IN ASSEMBLY APRIL 26, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 588

Introduced by Assembly Member De Leon

February 21, 2007

An act to add Chapter 4 (commencing with Section 8350) to Division 4.1 of the Public Utilities Code, relating to credit history.

LEGISLATIVE COUNSEL'S DIGEST

AB 588, as amended, De Leon. Credit history: public utilities.

Existing state and federal law define and regulate credit reporting agencies, as defined. Existing law prohibits certain items of information from appearing in credit reports, including adverse information that antedates the report by more than 7 years.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and authorizes the commission to establish rules for all public utilities, subject to control by the Legislature.

This bill would require each interval-billing public utility, as defined, and interval-billing publicly owned utility, as defined, ~~to allow subscribers to affirmatively choose to release the subscriber's utility service payment history to a financial institution, as defined, or consumer credit reporting agency specified by the subscriber upon receipt of the express written consent of a subscriber, to make the subscriber's utility service payment history available to a financial institution, as defined, or consumer credit reporting agency, as defined, specified by the subscriber.~~ The bill would ~~authorize~~ *require* the commission to establish rules to ensure compliance by public utilities with the bill's

requirements. The bill would make the governing board of the publicly owned utility responsible for implementing the bill's requirements. By placing additional requirements upon publicly owned utilities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Credit has taken on an increasingly significant role in our
4 economy, but many lack access to the credit system. A significant
5 barrier to obtaining credit for millions is the lack of files with a
6 major credit bureau, making it difficult to obtain credit due to the
7 absence of information to evaluate risk and thereby extend credit
8 or to establish a credit score. It is estimated that as many as 70
9 million Americans are believed to have "thin files" or no credit
10 history at all.

11 (b) Lacking a formal credit history can affect a consumers'
12 ability to receive competitive mortgage and nonmortgage credit.
13 Additionally, credit scores are used increasingly for other purposes,
14 such as approving and determining automobile and home insurance
15 loans and rates, hiring employees, and approving rental
16 applications.

17 (c) The negative consequences of a "thin file" or a lack of credit
18 history with a major credit bureau can mean the loss of loan
19 approval, access to a new job, apartment, or low-cost insurance.

20 (d) Consumers lacking an adequate credit history are
21 disproportionately among the poor and low-income populations,
22 and often include widows and new migrants.

23 (e) One study has reviewed the potential for mainstream lenders
24 to use "alternative" or "nontraditional" data, including payment
25 obligations and histories for rent, natural gas, electricity, and
26 insurance, to evaluate the risk profile of potential borrowers. The

1 findings of that study indicate that alternative data, if widely
2 incorporated into credit reporting, would bring millions into the
3 credit mainstream and would improve their chances of building
4 assets. The study found that the use of alternative data in consumer
5 and commercial credit reports would increase opportunities for
6 consumers to benefit from less expensive access to capital to invest
7 in businesses and homes, as well to improve the terms of their
8 existing credit obligations and access, and to provide them with
9 access to new products and services.

10 (f) Studies also show that those outside the credit mainstream
11 have similar risk profiles as those in the mainstream when
12 nontraditional data is included in credit assessments. The risk
13 profile of those with “thin files” or no history, after energy utility
14 and telecommunications data are included in their credit files, is
15 similar to that of the general population. Findings also show that
16 nontraditional data make extending credit easier. Including energy
17 utility data in all consumer credit reports increases the acceptance
18 rate by 10 percent, and including telecommunications data
19 increases the acceptance rate by 9 percent.

20 (g) Including nontraditional data in credit risk assessments
21 decreases credit risk and increases access to credit. Estimates show
22 that the inclusion of alternative data in credit risk assessments
23 increases the number of persons with scoreable assessments by 10
24 percent. Sizable segments of the population would see their credit
25 scores improve if alternative data is included in credit risk
26 assessments, specifically 22.4 percent improve if energy utility
27 data is included and 11 percent improve if telecommunications
28 data is included. Two-thirds of unscorable “thin-file” consumers
29 become scoreable when alternative data is included in their credit
30 files.

31 (h) It is the intent of the Legislature to enable consumers to
32 authorize the inclusion of alternative data, specifically data on
33 their payment obligations and histories with respect to public
34 utilities and publicly owned utilities that bill customers on a regular
35 interval basis, to be included in the consumer’s credit files.

36 SEC. 2. Chapter 4 (commencing with Section 8350) is added
37 to Division 4.1 of the Public Utilities Code, to read:

1 CHAPTER 4. CONSUMER CONTROL OVER UTILITY PAYMENT
2 INFORMATION
3

4 8350. For purposes of this chapter, the following terms have
5 the following meanings:

6 (a) “Consumer credit reporting agency” means any entity or
7 person who, for monetary fees, dues, or on a cooperative nonprofit
8 basis, regularly engages in whole or in part in the business of
9 assembling or evaluating consumer credit information or other
10 information on consumers for the purpose of furnishing consumer
11 credit reports to third parties, but does not include any
12 governmental agency whose records are maintained primarily for
13 traffic safety, law enforcement, or licensing purposes.

14 (b) “Financial institution” means a bank, trust company, savings
15 institution, thrift institution, or credit union, chartered and
16 supervised under state or federal law, any institution the business
17 of which is engaging in financial activities as described in Section
18 1843(k) of Title 12 of the United States Code, an industrial loan
19 company licensed and supervised under the laws of this state, an
20 insurance company, or person engaged in the business of lending
21 money.

22 (c) “Interval-billing public utility” means a public utility, as
23 defined in Section 216, that provides electric, gas, sewer, telephone,
24 or water service to retail end-use residential consumers, and that
25 bills subscribers for utility service on a monthly or other regular
26 periodic basis.

27 (d) “Interval-billing publicly owned utility” means any
28 governmental entity, including a municipal corporation, municipal
29 utility district, public utility district, irrigation district, and joint
30 powers authority, that provides electric, gas, sewer, telephone, or
31 water service to retail end-use residential consumers, and that bills
32 subscribers for utility service on a monthly or other regular periodic
33 basis.

34 8351. (a) Every interval-billing public utility and
35 interval-billing publicly owned utility shall ~~allow subscribers to~~
36 ~~affirmatively choose to release the subscriber’s utility service~~
37 ~~payment history to a financial institution or consumer credit~~
38 ~~reporting agency specified by the subscriber, upon receipt of the~~
39 *express written consent of the subscriber, make the subscriber’s*

1 *utility service payment history available to a financial institution*
2 *or consumer credit reporting agency specified by the subscriber.*

3 (b) A subscriber's ~~affirmative choice to provide~~ *express written*
4 *consent to provide utility service payment information pursuant to*
5 *subdivision (a) does not waive any other legal rights of the*
6 *subscriber and ~~any~~ does not authorize the interval-billing public*
7 *utility or interval-billing publicly owned utility to provide or*
8 *otherwise disclose any confidential information of the subscriberr*
9 *other than the utility service payment history. Any information*
10 *provided to a financial institution or consumer credit reporting*
11 *agency pursuant to subdivision (a) shall be subject to any privacy*
12 *or consumer protection laws otherwise applicable.*

13 (c) A subscriber may revoke any authorization for the release
14 of the subscriber's utility service payment history to a financial
15 institution or consumer credit reporting agency pursuant to
16 subdivision (a), and the interval-billing public utility or
17 interval-billing publicly owned utility shall comply with the
18 subscribers revocation of the authorization ~~with~~ *within* a reasonable
19 period of time, not to exceed 60 days.

20 (d) *Neither an interval-billing public utility or an interval-billing*
21 *publicly owned utility, nor a subscriber shall be required to fund*
22 *any costs associated with providing the subscriber's utility service*
23 *payment history to a financial institution or consumer credit*
24 *reporting agency. An interval-billing public utility or*
25 *interval-billing publicly owned utility shall be authorized to recover*
26 *any costs incurred from the financial institution or consumer credit*
27 *reporting agency.*

28 8352. (a) The commission ~~may~~ *shall* establish rules for each
29 public utility that is subject to Section 8351, to ensure compliance
30 with the requirements of that section. *The rules shall include a*
31 *requirement that subscribers be provided explicit information,*
32 *prior to providing the written consent, regarding the consequences*
33 *of providing written consent to make their utility service payment*
34 *history available to a financial institution or consumer credit*
35 *reporting agency.*

36 (b) The governing board of an interval-billing publicly owned
37 utility is responsible for implementing the requirements of Section
38 8351.

39 SEC. 3. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

- 1 a local agency or school district has the authority to levy service
- 2 charges, fees, or assessments sufficient to pay for the program or
- 3 level of service mandated by this act, within the meaning of Section
- 4 17556 of the Government Code.

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